



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

201447058

AUG 26 2014

Uniform Issue List: 408:00:00

T: EP: RA: T3

**Legend:**

Taxpayer	=
Plan	=
Financial Institution A	=
Financial Institution B	=
Amount	=

Dear ,

This is in response to your request, dated July 19, 2013 and supplemented by communication dated July 18, 2014, in which your authorized representative, on your behalf, requested a waiver of the 60-day rollover requirement contained in section 402(c)(3)(A) of the Internal Revenue Code (the "Code").

The following facts and representations have been submitted under penalty of perjury in support of the ruling requested.

Taxpayer represents that she received a distribution from Plan of Amount. Taxpayer asserts that her failure to accomplish a rollover within the 60-day period prescribed by section 402(c)(3) of the Code was due to errors made by Financial Institution A and Financial Institution B. Taxpayer further represents that Amount has not been used for any other purpose.

On June 2, 2010, Taxpayer received a distribution of Amount from Plan, in which she was a participant. Plan was administrated by Financial Institution A. Taxpayer instructed Financial Institution B to establish an Individual Retirement Account (IRA) in her name to accept a rollover contribution from Plan. Taxpayer then contacted Financial Institution A and requested that a rollover distribution be made to Financial Institution B. Financial Institution A issued a check to taxpayer titled in a manner indicating the check was to constitute a direct rollover. However, the check made no reference to the Individual Retirement Account.

The check was deposited with Financial Institution B on June 18, 2010 but it was deposited in a non-IRA account and taxpayer had no indication that the account was not an IRA until almost three years after the distribution was made. Further, Financial Institution A filed an IRS form 1099-R with respect to the distribution and coded it consistent with it being a direct rollover.

Based on the facts and representations, you request a ruling that the Internal Revenue Service (the "Service") waive the 60 day rollover requirement contained in section 402(c)(3)(A) of the Code with respect to the distribution of Amount.

Section 402(c) of the Code provides that if any portion of the balance to the credit of an employee in a qualified trust is paid to the employee in an eligible rollover distribution, and the distributee transfers any portion of the property received in such distribution to an eligible retirement plan, and in the case of a distribution of property other than money, the amount so transferred consists of the property distributed, then such distribution (to the extent transferred) shall not be includible in gross income for the taxable year in which paid. Section 402(c)(3)(A) states that such rollover must be accomplished within 60 days following the day on which the distributee received the property. An IRA constitutes one form of eligible retirement plan.

Section 402(c)(3)(B) of the Code provides that the Secretary may waive the 60-day requirement under section 402(c)(3)(A) where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement.

Revenue Procedure 2003-16, 2003-4 I.R.B. 359, (January 27, 2003) provides that in determining whether to grant a waiver of the 60-day rollover requirement pursuant to section 402(c)(3)(B) of the Code, the Service will consider all relevant facts and circumstances, including: (1) errors committed by a financial institution; (2) inability to complete a rollover due to death, disability, hospitalization, incarceration, restrictions imposed by a foreign country, or postal error; (3) the use of the amount distributed (for example, in the case of payment by check, whether the check was cashed); and (4) the time elapsed since the distribution occurred.

The information presented and documentation submitted is consistent with Taxpayer's assertion that her failure to accomplish a timely rollover was a result of

errors committed by both Financial Institution A and Financial Institution B that led to Amount being contributed to a non-IRA Account.

Therefore, pursuant to section 402(c)(3)(B) of the Code, the Service hereby waives the 60-day rollover requirement with respect to the distribution of Amount from Plan. Taxpayer is granted a period of 60 days from the issuance of this ruling letter to contribute Amount into a Rollover IRA. Provided all other requirements of section 402(c)(3) of the Code, except the 60-day requirement, are met with respect to such contribution, Amount will be considered a rollover contribution within the meaning of section 402(c)(3) of the Code.

This ruling does not authorize the rollover of amounts that are required to be distributed under section 401(a)(9).

No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations that may be applicable hereto.

This letter is directed solely to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

If you wish to inquire about this ruling, please contact \*\*\*\*\*. Please address all correspondence to SE:T:EP:RA:T2.

Sincerely yours,



Jason E. Levine, Manager  
Employee Plans Technical Group 2

Enclosures:

Deleted copy of letter ruling  
Notice of Intention to Disclose

cc: